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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,899	03/29/2001	Jim Paul Haughwout	06975-144001 / Member Ser	5374
26171	7590	04/13/2004	EXAMINER	
FISH & RICHARDSON P.C. 1425 K STREET, N.W. 11TH FLOOR WASHINGTON, DC 20005-3500			THEIN, MARIA TERESA T	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/819,899

Applicant(s)

HAUGHWOUT, JIM PAUL

Examiner

Marissa Thein

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 90-134 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 90-134 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on January 12, 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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DETAILED ACTION

Response to Amendment

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 12, 2004 has been entered.

Applicant's "Reply to final Office Action" filed on January 12, 2004 has been considered with the following effect.

Claims 1-89 have been cancelled. New claims 90-134 are added and remain pending in this application.

Drawings

Figures 7A through 11 filed on January 12, 2004 are acceptable.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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Claim 121 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The phrase "a propagated signal" is considered non-statutory. A signal per se is not the type of subject matter that is considered statutory. The "propagated signal" is interpreted as an abstract arrangement that is transmitted or is a transmission in transit.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 90-97, 99-113, 115-127, and 129-134 are rejected under 35

U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,134,530 to Bunting et al.

Regarding claim 90, Bunting discloses a process comprising:

- receiving and handling at a customer service call center an incoming service call from a caller seeking assistance (see at least col. 4, lines 28-32; col. 4, lines 52-57; col. 6, lines 15-29; col. 6, lines 59-67; col. 7, lines 1-3); and
- leveraging the incoming service call for assistance as a conduit for soliciting the caller to purchase merchandise or services (see at least col. 4, lines 18-32; col. 6, lines 40-51; col. 7, lines 1-23), the leveraging including:

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- identifying a caller identity or a first caller attribute related to the caller (see at least col. 4, lines 18-32; col. 4, lines 40-45; col. 7, lines 13-23; col. 8, lines 56-61; col. 9, lines 21-26);
- searching a first electronic database to determine an additional attribute of the caller based on at least one of the caller identity or the first caller attribute, where the first electronic database includes information gathered about the caller prior to the call (see at least col.4, lines 18-32; col. 4, lines 54-61; col. 7, lines 16-32; col. 8, lines 56-60; col. 9, lines 21-26);
- searching a second electronic database of potential sales pitches to identify a first sales pitch based upon at least one of the identity, a first attribute or additional attribute of the caller (see at least col. 7, lines 16-32; col. 7, line 53-col. 8, line 8; col. 8, lines 56-60; col. 9, lines 27-32);
- routing the service call to a human operator for presentation of the first sales pitch to the caller (see at least col.6, lines 41-51; col. 7, lines 24-32; col. 8, lines 13-24); and
- assisting the human operator in presenting the first sales pitch to the caller (see at least col.6, lines 41-51; col. 7, lines 24-32; col. 8, lines 13-24).

Regarding claims 91-93, 108-110, and 122-124, Bunting discloses the additional attribute of the caller comprises a preference not to receive a sales pitch or any sales pitch (see at least col. 7, lines 19-23; col. 7, lines 31-33; col. 8, lines 56-60; col. 9, lines 21-33); and a preference to receive a certain type of sales pitch (see at least col. 7,

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lines 19-23; col. 7, lines 31-33; col. 8, lines 56-60; col. 9, lines 21-33; col. 12, lines 18-43).

Regarding claims 94-97, 111-113, and 125-127, Bunting discloses populating the first electronic database prior to the call with information indicative of the caller; populating the first electronic database with information indicative of a response by the caller to the first sales pitch; and populating the first electronic database with information indicative of pass misbehavior (see at least col. 4, lines 23-32; col. 4, lines 35-39; col. 7, lines 16-32; col. 7, lines 58-61; col. 7, line 64-col. 8, line 7; col. 8, lines 56-60; col. 9, lines 21-26; col. 12, lines 1-55).

Regarding claims 99-102, 115-118, and 129-132, Bunting discloses wherein assisting the human operator in presenting the first sale pitch comprises displaying at least a portion of the selected first sales pitch on a display of the human operator (see at least col. 8, lines 13-24); wherein the first sales pitch is identified with the second database only when at least one of the identity, first attribute and/or additional attribute of the caller indicates that the caller satisfies a predetermined criterion (see at least col. 4, lines 23-32; col. 4, lines 35-39; col. 7, lines 16-32; col. 7, lines 58-61; col. 7, line 64-col. 8, line 7; col. 8, lines 56-60; col. 9, lines 21-26; col. 12, lines 1-55); wherein the first caller attribute indicates a geographic residence of the caller, and identifying the first sale pitch includes making unavailable selection one or more sales pitches of the second electronic database based upon the geographic residence of the caller (see at least col. 1, lines 27-31; col. 1, lines 51 – col. 2, line 9; col. 4, lines 23-44; col. 7, lines 16-32); and wherein the additional attribute of the caller includes a credit status for the

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caller and identifying the frits sales pitch includes selecting the first sales pitch for the caller only when the credit status of the caller is satisfactory (see at least col. 1, lines 27-31; col. 1, lines 51 – col. 2, line 9; col. 4, lines 23-44; col. 7, lines 16-32; col. 9, lines 34-45).

Regarding claims 103-105, 119-120, and 133-134, Bunting discloses transferring the caller to a commercial partner that provides a product or service that corresponds to the selected first sales pitch if the caller has expressed interest in the first sales pitch (see at least col. 2, lines 23-33; col. 8, lines 44-55; col. 11, lines 14-23; col. 12, lines 6-17; col. 13, lines 30- col. 14, line 5; col. 14, lines 47-52; Figure 12); communicating information related to the caller to the commercial partner substantially in real time (see at least col. 7, line 64- col. 8, line 8); and wherein the information comprises information related to the first sales pitch presented to the caller (see at least col. 2, lines 23-33; col. 8, lines 44-55; col. 11, lines 14-23; col. 12, lines 6-17; col. 13, lines 41 – col. 14, line 5; col. 14, lines 47-52; Figure 12).

Regarding claim 106, Bunting discloses transferring the caller to a commercial partner that provides a product service that corresponds to the selected first sales pitch, wherein the commercial partner provides a second sales pitch to the caller; receiving feedback information form the commercial partner regarding a response by the caller to the second sales pitch; and populating the first electronic database with information indicative of the response by the caller to the second sale pitch. (See at least col. 2, lines 23-33; col. 8, lines 44-47; col. 11, lines 14-23; col. 12, lines 6-17; col. 13, lines 41 – col. 14, line 5; col. 14, lines 47-52; Figure 12)

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Regarding claims 107 and 121, Bunting discloses a system and computer program comprising:

- an identification component or code segment that determines a caller identity related to a caller seeking assistance from a customer service call center (see at least col. 4, lines 18-32; col. 4, lines 40-45; col. 7, lines 13-23; col. 8, lines 56-61; col. 9, lines 21-26);
- a first electronic database component or code segment that identifies an attribute related to the caller identity, wherein the first electronic database includes information gathered about the caller prior to the call (see at least col.4, lines 18-32; col. 4, lines 54-61; col. 7, lines 16-32; col. 8, lines 56-60; col. 9, lines 21-26);
- a second electronic database component or code segment that identifies a first sale pitch based on at least one of the caller identity or the attribute related to the caller (see at least col. 7, lines 16-32; col. 7, line 53-col. 8, line 8; col. 8, lines 56-60; col. 9, lines 27-32);
- a call router that routes the service call to a human operator to assist the caller and for presentation of the first sales pitch to the caller (see at least col.6, lines 41-51; col. 7, lines 24-32; col. 8, lines 13-24); and
- a presentation component or code segment that assists the human operator to present the first sales pitch to the caller (see at least col.6, lines 41-51; col. 7, lines 24-32; col. 8, lines 13-24).

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 98, 114, and 128 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,134,530 to Bunting. Bunting substantially discloses the claimed invention, however, it does not explicitly disclose a second sales pitch. However, Bunting discloses the matching of sales and service resource skill profiles with a customers provide, contact type and request type thus providing better resource utilization and identifying cross-sell opportunities (col. 4, lines 19-22). Furthermore, it discloses an intelligent routing technology, which assures that callers are routed to employees with the necessary skills to provide the highest quality of service to the calling customer (col. 11, lines 56-59). Although the reference does not explicitly disclose the second sales pitch, it would have been obvious to one of ordinary skill in the art to have provided the sales pitch disclosed by Bunting to have been a second sales pitch, such sales pitch would have been recognized by the skilled artisan as being any numerous sales pitches suitable in trying to meet customer needs. Moreover, Applicant has not persuasively demonstrated that the second sales pitch is critical or is anything more than any sales pitch that the skilled artisan would have found suitable for the purpose taught by Bunting. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a second sales

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pitch, such as the sales pitch taught in Bunting, for purpose of fulfilling the customer's needs (col. 15, lines 54-56).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,684,870 to Maloney et al. discloses a method and system for transferring calls and call-related data between a pluralities of call centers.

U.S. Patent No. 5,594,791 to Szlam et al. discloses an automated customer service system which accommodates both inbound and outbound communicates, which uses a variety of media, and which has a user-programmable strategy, so as to provide result-oriented customer service.

U.S. Patent No. 5,768,360 to Reynolds et al. discloses a system where calls are routed using intelligence resident outside of the public switched telephone network that is based on characteristics of the call, the attributes of the caller, the status of subscriber-provided resource.

U.S. Patent No. 6,070,142 to McDonough et al. discloses a virtual customer sales and service center that connects a customer to a customer access resource through any access method at anytime from any customer location.

U.S. Patent No. 6,181,927 to Welling, Jr. et al. discloses a system for communicating messages to a subscriber station in response to one or more attributes relating to the subscriber station.

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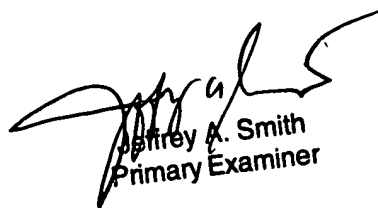
U.S. Patent No. 6,389,400 to Bushey et al. discloses a method and system for intelligent routing of request from customers to agents where a request is received at a service center from a customer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 703-305-5246. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Smith can be reached on 703-308-3588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mtot
April 2, 2004



Jeffrey A. Smith
Primary Examiner